

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

KEVIN A. KIMM, D.O., RESPONDENT

FILE No. 03-13-150

DISMISSAL ORDER

COMES NOW the Iowa Board of Medicine (Board) and on October 3, 2014, dismisses the pending charges in this matter.

1. Respondent was issued Iowa medical license no. 02352 on June 30, 1989.
2. Respondent's Iowa medical license went inactive due to nonrenewal on November 1, 2012.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C
4. **Practice Setting:** Respondent is an Iowa-licensed physician who formerly practiced general medicine in Charles City and Mason City, Iowa, and Blue Earth, Minnesota.

5. **Minnesota Action:** On March 9, 2013, Respondent entered into a Stipulation and Order with the Minnesota Board of Medical Practice (Minnesota Board). The Minnesota Board concluded that Respondent was unable to practice medicine with reasonable skill and safety due to illness and his Minnesota medical license was suspended indefinitely. See Attachment A. Respondent is seeking reinstatement of his Minnesota medical license.

6. **Iowa Physician Health Program:** Respondent's Iowa medical license went inactive due to nonrenewal on November 1, 2012. On December 26, 2012, Respondent entered into an Initial Agreement with the Iowa Physician Health Program (IPHP) due to a health condition which may impair his ability to practice medicine with reasonable skill and safety. Respondent agreed to obtain approval from the IPHP prior to returning to the practice of medicine. On May 20, 2013, Respondent entered into an agreement with the IPHP to report to the IPHP prior to seeking reinstatement of his Iowa medical license.

7. **Statement of Charges:** On August 8, 2014, the Iowa Board filed charges against Respondent based on the Minnesota action.

8. **Dismissal:** On October 3, 2014, the Board voted to dismiss the pending charges in this matter. The Board noted that Respondent's Iowa medical license has been inactive due to nonrenewal since November 1, 2012. The Board also noted that the Stipulation and Order (see Attachment A) that Respondent entered into with the Minnesota Board on March 9, 2013, is a public record and Respondent has entered into an agreement to report to the IPHP prior to seeking reinstatement of his Iowa medical license.

THEREFORE IT IS HEREBY ORDERED: that the Board **DISMISSES** the pending charges in this matter.

This Order is approved by the Board on October 3, 2014.

A handwritten signature in black ink, appearing to be 'Hamed H. Tewfik', written over a horizontal line.

Hamed H. Tewfik, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

KEVIN A. KIMM, D.O., RESPONDENT

FILE No. 03-13-150

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine (Board) on August 8, 2014, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 02352 on June 30, 1989. Respondent's Iowa medical license went inactive due to nonrenewal on November 1, 2012.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on October 2, 2014, before the Iowa Board of Medicine. The hearing shall begin at 1:00 p.m. and shall be located in the conference room at the Iowa Board of Medicine office at 400 SW 8th Street, Suite C, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Notice of Hearing you are required by 653 Iowa Administrative Code 25.10 to file an Answer. In that Answer, you should also state whether you will require a continuance of the date and time of the hearing.

3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on prehearing matters, and be present to assist and advise the board at hearing.

4. Prehearing Conference. A prehearing conference will be held by telephone on August 27, 2014, at 9:00 a.m., before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (ALJ). Please contact Kent M. Nebel, J.D., Legal Director, Iowa Board of Medicine, at 515-281-7088 with the telephone number at which you or your legal counsel can be reached. Board rules on prehearing conferences may be found at 653 Iowa Administrative Code 25.15.

5. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 Iowa Administrative Code Chapter 25. At hearing, you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 653 Iowa Administrative Code 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

6. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

7. Communications. You may not contact board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You may contact Kent M. Nebel, J.D., Legal Director, at 515-281-7088 or to Assistant Attorney General Julie Bussanmas at 515-281-5637.

B. LEGAL AUTHORITY AND JURISDICTION

8. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 147, 148, and 272C.

9. Legal Authority: If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 148, and 272C (2005) and 653 Iowa Administrative Code Chapter 25.25.

10. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 653 Iowa Administrative Code 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

11. **Discipline by Another Licensing Authority:** Respondent is charged pursuant to Iowa Code section 148.6(2)(d) and 653 IAC 23.1(1) with having a license to practice medicine and surgery or osteopathic medicine and surgery revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the order of disciplinary action is prima facie evidence.

STATEMENT OF THE MATTERS ASSERTED

12. **Practice Setting:** Respondent is an Iowa-licensed physician who formerly practiced general medicine in Blue Earth, Minnesota.

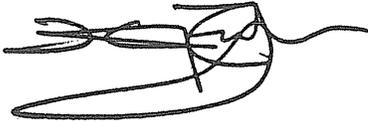
13. **Minnesota Disciplinary Action:** On March 9, 2013, Respondent entered into a Stipulation and Order with the Minnesota Board of Medical Practice (Minnesota Board). The Minnesota Board alleged that Respondent is unable to practice medicine with reasonable skill and safety at this time due to illness. The Minnesota Board indefinitely suspended Respondent's Minnesota medical license. See Attachment A.

E. SETTLEMENT

14. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 Iowa Administrative Code 12.25. If you are interested in pursuing settlement of this matter, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

F. PROBABLE CAUSE FINDING

15. On August 8, 2014, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

A handwritten signature in black ink, appearing to read 'Hamed H. Tewfik', written over a horizontal line.

Hamed H. Tewfik, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

**TRUE AND EXACT
COPY OF ORIGINAL**

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of
the Medical License of
Kevin Allen Kimm, D.O.
Year of Birth: 1952
License Number: 50,882

**STIPULATION
AND ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between Kevin Allen Kimm, D.O. ("Respondent"), and the Complaint Review Committee ("Committee") of the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota.

2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Respondent has chosen not to be represented by counsel. The Committee was represented by Kermit N. Fruechte, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 757-1059.

FACTS

3. For the purpose of this stipulation, the Board may consider the following facts as true:

a. Respondent is unable to practice medicine with reasonable skill and safety to patients at this time due to illness.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(1) (2012), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. Upon this stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an order suspending Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

- a. Respondent's license is **INDEFINITELY SUSPENDED**.
- b. During the period of suspension, Respondent shall not in any manner practice medicine and surgery in Minnesota.
- c. Respondent may petition for reinstatement upon submission of satisfactory evidence that Respondent is fit and competent to resume practice with reasonable skill and safety to patients.
- d. Upon petitioning for reinstatement of his license, Respondent shall appear before the Complaint Review Committee to discuss his petition and progress in recovery. Upon hearing Respondent's petition, the Committee may recommend that the Board continue, modify, or remove the suspension or impose conditions or restrictions as deemed necessary.

e. Respondent shall sign all necessary releases allowing the Board access to all medical, mental health, evaluation, therapy, chemical dependency, or other records from any treating health professional or evaluator. Respondent shall allow the Board or its designee to communicate with all treating health professionals

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences. Within seven (7) days of any change, Respondent shall provide the Board with the new address and telephone information. The information shall be sent to Robert A. Leach, Minnesota Board of Medical Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.

7. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of his residence. Periods of residency or practice outside of Minnesota will not be credited toward any period of Respondent's suspended license in Minnesota.

8. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's license.

9. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto.

10. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

11. Respondent hereby acknowledges that he has read and understands this stipulation and has voluntarily entered into the stipulation without threat or promise by the Board or any of its members, employees, or agents. This stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this stipulation.

Dated: 1-30-2013

Dated: 3/9/13

Kevin Allen Kimm, D.O.
Kevin Allen Kimm, D.O.
Respondent

Kent Beys
For the Committee

ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this 9th day of March, 2013.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: Robert J. [Signature]